

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALLSTATE INSURANCE COMPANY,

Plaintiff,

vs.

Civ. No. 00-1598 MV/DJS

PERFORMANCE COATINGS, INC., and
DOES 1-10, inclusive,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendant Performance Coatings, Inc.'s Motion for Summary Judgment for Lack of Product Identification, filed October 1, 2001 [**Doc. No. 26**] and Defendant Performance Coatings, Inc.'s Motion to Strike Don Naylor Affidavit, filed October 11, 2002 [**Doc. No. 47**]. The Naylor Affidavit was attached to Plaintiff's Opposition to Defendants Motion for Summary Judgment for Lack of Product Identification. In a Memorandum Opinion and Order dated February 3, 2004, the Court granted Defendant Performance Coatings, Inc.'s Motion for Summary Judgment Based Upon Liquidation of Reliance Insurance Companies.

IT IS THEREFORE ORDERED that Defendant Performance Coatings, Inc.'s Motion for Summary Judgment for Lack of Product Identification, filed October 1, 2001 [**Doc. No. 26**] and Defendant Performance Coatings, Inc.'s Motion to Strike Don Naylor Affidavit, filed October 11, 2002 [**Doc. No. 47**] are hereby **DENIED** as moot.

Dated this 3rd day of February, 2004.



MARTHA VAZQUEZ
U. S. DISTRICT COURT JUDGE

Attorney for Plaintiff:

Harvey Fruman, Esq.

Attorney for Defendant:

Gary J. Van Luchene, Esq.